

REMARKS

In the Office Action, the Office has rejected claims 7-27. More specifically:

- Claims 7-27 were rejected under 35 U.S.C. §101 as being directed to non-statutory subject matter;
- Claim 20 was rejected under 35 U.S.C. §112 as being indefinite;
- Claims 7-12, 18 and 20-27 were rejected under 35 U.S.C. §102(e) as being anticipated by U.S. Patent Publication No. 2003/0208754 to Sridhar et al. (“*Sridhar*”);
- Claims 13-17 were rejected under 35 U.S.C. §103(a) as being unpatentable over *Sridhar* in view of U.S. Patent No. 6,684,195 to Deaton et al. (“*Deaton*”); and
- Claim 19 was rejected under 35 U.S.C. §103(a) as being unpatentable over *Sridhar*.

Claims 18, 20 and 23 have been amended. No new matter has been added as a result of these amendments. Upon entry of these amendments, claims 7-27 remain pending. For the reasons set forth hereinbelow, Applicants request that the §§101, 112, 102(e) and 103(a) rejections associated with the pending claims be withdrawn.

Rejections Under 35 U.S.C. §101

Claims 7-27 were rejected under 35 U.S.C. §101 as being directed to non-statutory subject matter. Specifically, these claims were rejected as not being tied to another statutory class of invention and not transforming the underlying subject matter.

Independent claims 18, 20 and 23 are directed to methods of distributing limited quantities of promotional offers in an electronic system. Moreover, certain limitations of these independent claims are tied to one or more components of the electronic system. For example, claim 18 requires that measures of acceptance probabilities be presented on a graphical display of the electronic system, claim 20 requires that an offer associated with a product in a product

grouping be selected by a computer device in the electronic system, and claim 23 requires identifying a customer by a computing device in an electronic system. As such, claims 18, 20 and 23, and the claims that depend therefrom, are tied to a particular machine or apparatus. Accordingly, Applicants respectfully request that the §101 rejections associated with claims 7-27 be withdrawn.

Rejections Under 35 U.S.C. §112

Claim 20 was rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter regarded as the invention. Claim 20 has been amended to clarify the phrase “promotional offers for a particular product that may be distributed in aggregate to all customers.” Accordingly, Applicants respectfully request that the §112 rejection associated with claim 20 be withdrawn.

Rejections Under 35 U.S.C. §102(e)

Claim 23

Independent claim 23 is not anticipated by U.S. Patent Application Publication No. 2003/0208754 to *Sridhar* because *Sridhar* fails to disclose each and every element of claim 23. See MPEP §2131 (stating that a claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in the single prior art reference). More particularly, *Sridhar* fails to disclose at least the following elements required by claim 23:

- generating a plurality of scores for said plurality of customers, each said score being associated with one said customer and with one said offer, and each said score measuring a probability that the associated customer will make a purchase in accordance with the associated offer;

- identifying, by a computing device in said electronic system, a highest score in said plurality of scores;
- determining: a customer, from said plurality of customers, associated with said highest score, and a first promotional offer, from said plurality of promotional offers, associated with said highest score;
- assigning said first promotional offer to a first personalized offer list for said customer if said first promotional offer satisfies one or more constraints on one or more of the following: a total number of first promotional offers that are distributable, and a total number of promotional offers that are distributable to said customer; and
- successively repeating said identifying, determining and assigning steps for each next highest score until all of the promotional offers in said plurality of promotional offers have been assigned to personalized offer lists.

Sridhar discloses a system and method for providing a subscriber with relevant advertisements based on the subscriber's purchase prediction for various products and information such as location, ongoing events and personal events (See *Sridhar* ¶0024). The purchase prediction is determined for individual subscribers as illustrated by the specification language from *Sridhar* which provides “[i]he objective for the advertisement system is two folds [sic] one to attract the subscriber to a relevant event, which is close to him, and second to draw his attention to a product which has [sic] largest purchase prediction for him” (*Sridhar* ¶0156, emphasis added).

Unlike the methods of *Sridhar*, the method of claim 23 is directed to generating a plurality of scores for a plurality of customers. Claim 23 requires identifying the highest score of this plurality of scores, determining a customer and promotional offer associated with the highest score and assigning the associated promotional offer to the associated customer if one or more constraints are met. Specifically, claim 23 requires that the promotional offer be within a total number of promotional offers that are distributable and/or a total number of promotional offers

that are distributable to that customer. Claim 23 also requires successively repeating these steps for offers having the next highest score until all of the offers have been assigned to customers.

In contrast, the system in *Sridhar* analyzes offers for a single customer in isolation (i.e., only one customer is considered at a time). As such, the system in *Sridhar* distributes what it determines to be the best offer based on analyzing information only for the considered customer instead of examining offers for a plurality of customers concurrently.

As such, the system of *Sridhar* distributes advertisements to subscribers who do not have the highest probability of purchasing the product being promoted because *Sridhar* only teaches determining a purchase prediction for an individual subscriber. This is especially true when constraints are placed on the number of advertisements that may be distributed or the number of advertisements a specific customer may receive. In other words, an advertisement having the highest probability of being selected by one customer may have an even higher probability of being selected by a different customer. Claim 23 requires analyzing a plurality of probabilities for a plurality of customers and, as such, can target advertisements to particular customers having the highest probability of purchasing the product being promoted.

In addition, claim 23 requires that an offer be assigned to a customer only if the offer is within a total number of promotional offers that are distributable and/or a total number of promotional offers that are distributable to that customer. *Sridhar* does not disclose assigning an offer to a customer based on such constraints.

In light of the foregoing, *Sridhar* fails to disclose every element of claim 23, and, as such, does not render claim 23 unpatentable under 35 U.S.C. §102(e). Claims 7-17 and 24-27 depend from claim 23 and thus contain all of the limitations of claim 23. Accordingly, Applicant requests that the rejections associated with claims 7-17 and 23-27 be withdrawn.

Claim 18

Independent claim 18 is not anticipated by U.S. Patent Application Publication No. 2003/0208754 to *Sridhar* because *Sridhar* fails to disclose each and every element of claim 18. More particularly, *Sridhar* fails to disclose, among other things, at least the following element required by claim 18:

- providing, for each combination of customer and promotional offer from said pluralities, a measure of an acceptance probability that the customer will accept the promotional offer, said acceptance probability being indicative of a likelihood said customer will accept the promotional offer in comparison to other customers included in said plurality of customers;

As discussed above with respect to claims 23-27 and 7-17, *Sridhar* merely describes determining a purchase prediction for an individual subscriber. Claim 18, on the other hand, is directed to providing an acceptance probability to a plurality of customers, and more specifically, to each combination of customer and offer from a plurality of customers and a plurality of offers. In addition, this acceptance probability indicates a likelihood that a customer will accept the promotional offer in comparison to other customers in the plurality of customers. In contrast, the system in *Sridhar* merely distributes what it determines to be the best offer for the considered customer independent of the acceptance probability of any other customer.

For at least these reasons, *Sridhar* fails to disclose every element of claim 18, and, as such, does not render claim 18 unpatentable under 35 U.S.C. §102(e). Claim 19 depends from claim 18 and thus contains all of the limitations of claim 18. Accordingly, Applicant requests that the §102(e) rejection associated with claims 18 and 19 be withdrawn.

Claim 20

Independent claim 20 is not anticipated by U.S. Patent Application Publication No. 2003/0208754 to *Sridhar* because *Sridhar* fails to disclose each and every element of claim 20.

More particularly, *Sridhar* fails to disclose, among other things, at least the following required element of claim 20:

- for a customer included in said portion of the customers, applying a statistical model to said purchase probability profile to determine an estimated probability that said customer will purchase a product from said product groupings, said estimated probability being indicative of a likelihood said customer will purchase said product in comparison to all other customers included in said portion of customers;
- selecting, by a computing device in said electronic system, for distribution to said customer an offers associated with a product in said product groupings, wherein said selected offer is associated with a highest estimated probability that said customer will purchase said product in comparison to all other customers included in said portion of customers, and
- determining whether said selected offer satisfies one or more constraints, wherein one of the one or more constraints is a limitation on a total quantity of promotional offers for said product that are distributable to all customers.

As discussed above with respect to claims 23-27 and 7-12, the methods of *Sridhar* only determine a purchase prediction for an individual subscriber and this purchase prediction is selected independently of the purchase predictions of other subscribers. As such, the system of *Sridhar* may distribute advertisements to subscribers who do not have the highest probability of purchasing the product being promoted. This is especially true when constraints are placed on the number of advertisements that may be distributed or the number of advertisements a specific customer may receive. In other words, an advertisement having the highest probability of being selected by one customer may have an even higher probability of being selected by a different customer. Claim 20 requires analyzing a plurality of probabilities for a plurality of customers and, as such, can target advertisements to particular customers having the highest probability of purchasing the product being promoted.

Sridhar fails to disclose every element of claim 20, and, as such, does not render claim 20 unpatentable under 35 U.S.C. §102(e). Claims 21 and 22 depend from claim 20 and thus contains all of the limitations of claim 20. Accordingly, Applicant requests that the §102(e) rejections associated with claims 20-22 be withdrawn.

All of the stated grounds of rejection have been properly traversed, accommodated or rendered moot. Applicant therefore respectfully requests that the USPTO reconsider and withdraw all presently outstanding rejections. There being no other rejections, Applicant respectfully requests that the current application be allowed and passed to issue.

If the Examiner believes for any reason that personal communication will expedite prosecution of this application, I invite the Examiner to telephone me directly.

AUTHORIZATION

The Commissioner is hereby authorized to charge any additional fees which may be required for this Amendment and Response, or credit any overpayment, to deposit account no. 50-0436.

Respectfully submitted,
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